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**BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission

**COMMISSIONERS**

**DOCKETED**

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

**JUL 28 2006**

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF  
ARIZONA WATER COMPANY, AN ARIZONA  
CORPORATION, TO EXTEND ITS CERTIFICATE  
OF CONVENIENCE AND NECESSITY AT  
RIMROCK, YAVAPAI COUNTY, ARIZONA.

DOCKET NO. W-01445A-05-0705

DECISION NO. **68859**

**OPINION AND ORDER**

DATE OF HEARING: March 21, 2006  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Amy Bjelland  
APPEARANCES: Mr. Robert W. Geake, Vice President and General  
Counsel, Arizona Water Company, on behalf of  
Applicant;  
Mr. David Ronald, on behalf of the Arizona Corporation  
Commission's Utilities Division.

**BY THE COMMISSION:**

On October 5, 2005, Arizona Water Company ("Arizona Water", "AWC", or "Applicant")  
filed with the Arizona Corporation Commission ("Commission") an application for an extension of  
its existing Certificate of Convenience and Necessity ("CC&N") to provide water service at Rimrock,  
Yavapai County, Arizona.

On December 23, 2005, the Commission's Utilities Division Staff ("Staff") issued a letter of  
sufficiency to Arizona Water.

On January 4, 2006, a procedural order was issued setting forth procedural deadlines and a  
hearing date in this matter.

On January 20, 2006, Arizona Water filed notice that it caused notice of the hearing in this  
matter to be published in the Sedona Red Rock News on January 13, 2006, and mailed a copy of the  
notice to all affected property owners on January 12, 2006.

On February 21, 2006, Staff filed its Staff Report recommending approval of the application

1 with conditions.

2 On February 23, 2006, Montezuma Rimrock Water Co., LLC ("Montezuma") applied for  
3 intervention in this matter. No objection was filed, and Montezuma's request for intervention was  
4 granted by Procedural Order on March 6, 2006.

5 On March 3, 2006, Arizona Water filed its Responses to Staff Report.

6 On March 21, 2006, a hearing was convened before a duly authorized Administrative Law  
7 Judge of the Commission. At hearing, testimony was given regarding AWC's agreement with the  
8 developer of Beaver Creek Preserve, which had requested water service of the Applicant and is part  
9 of the requested service area. Specifically, testimony was given that, if the CC&N extension were  
10 granted, AWC would provide water to a master meter within the development of Beaver Creek  
11 Preserve, and water service, individual meters, and billing within the development would be  
12 administered by the Beaver Creek Wastewater Improvement District.

13 By procedural order on March 22, 2006, the Administrative Law Judge ordered additional  
14 information relating to the existence and legal status of Beaver Creek Wastewater Improvement  
15 District, the advisability of implementation of a master meter system within an area certificated by  
16 the Commission, the existence of other such systems within Arizona that are certificated by the  
17 Commission, and any other relevant information to be filed in this Docket.

18 On April 20, 2006, Staff filed its Addendum to Staff Report, indicating that based on the  
19 information given at hearing regarding Arizona Water providing a master meter to the Beaver Creek  
20 Wastewater Improvement District, Staff had changed its position and now recommended that portion  
21 of the CC&N request be denied by the Commission.

22 Arizona Water made several requests for extensions of time to file its response to Staff's  
23 Addendum to Staff Report, all of which were granted. On June 20, 2006, Arizona Water filed its  
24 Response to Addendum to Staff Report and stated that in cooperation with Yavapai County and the  
25 developer of the Beaver Creek Preserve, it had sought and obtained a dissolution of the Beaver Creek  
26 Wastewater Improvement District and would now propose to provide individual meter service to the  
27 homes in that area.

28 \* \* \* \* \*

1 Having considered the entire record herein and being fully advised in the premises, the  
2 Commission finds, concludes, and orders that:

3 **FINDINGS OF FACT**

4 1. Pursuant to authority granted by the Commission, Arizona Water is an Arizona  
5 corporation that provides water utility service to approximately 73,000 customers in various portions  
6 of Cochise, Coconino, Gila, Maricopa, Navajo, Pima, Pinal and Yavapai Counties in Arizona.

7 2. On October 5, 2005, Arizona Water filed an application for approval of an extension  
8 to its CC&N for its Rimrock system. The proposed extension area encompasses portions of three  
9 sections in an unincorporated area north of Camp Verde, Yavapai County, Arizona. Exhibit A,  
10 attached hereto, illustrates the extension area and its proximity to AWC's current Rimrock system  
11 (which is contiguous to the south) as well as to Montezuma's current service area (which is  
12 contiguous to the east). For ease of reference, the requested extension area has been divided into  
13 three parcels as reflected in Exhibit A; Parcel One (consisting of approximately 95 acres), Parcel Two  
14 (consisting of approximately 160 acres), and Parcel Three (consisting of approximately 160 acres).  
15 Attached to the Application was a request for service from the landowner of Parcel One, America  
16 West Capital One, LC, which is the developer of the Beaver Creek Preserve, and a list of all  
17 landowners of record for Parcels Two and Three to whom notifications of the hearing in this matter  
18 were sent.

19 3. In order to provide water utility service to Parcel Three, Arizona Water proposes to  
20 run a 12-inch main from its current service territory south of Parcel Two through the eastern half of  
21 Parcel Two to reach the proposed development area located in Parcel One. This placement is in very  
22 close proximity to Parcel Three. Mr. Michael Whitehead, Vice President of Engineering for Arizona  
23 Water, testified that there are several homes that are in close proximity to the proposed line route, and  
24 therefore AWC requested a CC&N extension for all three parcels. Mr. Whitehead testified that

25 when Arizona Water Company runs a 12-inch pipeline of adequate  
26 capacity to serve quite a few folks, there will be, particularly if this  
27 12-inch pipeline is run through an area where they have never had  
28 the opportunity to request water service in the past,...many requests

1 for service from that 12-inch pipeline.<sup>1</sup>

2 Mr. Whitehead stated that AWC received no objections from any of the property owners who were  
3 notified of the proceeding in Parcels Two and Three.

4 4. Mr. Whitehead testified that due to the topography of Parcel Three, it would be a  
5 difficult undertaking to provide water utility service to the area. He also stated that sewer utility  
6 service to Parcels Two and Three would almost certainly be by septic tanks because the smallest lot  
7 size on each of these parcels appears to be one and one-half acres, which lends itself to septic tanks.<sup>2</sup>  
8 Mr. Reginald Owens, President of Beaver Creek Preserve, Inc. and America West Capital One, LC,  
9 testified that America West Capital One, LC, is developing a 166 lot subdivision, Thunder Ridge<sup>3</sup>,  
10 adjacent to Parcel One in a different Section, and the development plans call for septic tanks.<sup>4</sup> Mr.  
11 Owens testified that, as part of the development deal with Yavapai County for Beaver Creek  
12 Preserve, the developer agreed to establish a special district for wastewater treatment that would  
13 provide wastewater utility service to the area.<sup>5</sup>

14 5. Staff did not recommend approval of a CC&N extension to Parcel Three because it is  
15 contiguous to another water company's service territory, and neither company currently has requests  
16 for service to the area.

17 **Beaver Creek Preserve**

18 6. At hearing, testimony was given regarding AWC's agreement with the developer of  
19 Beaver Creek Preserve, which has requested water service of the Applicant and is part of the  
20 requested service area. Mr. Owens testified that, if the CC&N extension is granted, AWC would  
21 provide water to a master meter within the development of Beaver Creek Preserve, and water service,  
22 individual meters and billing within the development would be administered by the Beaver Creek  
23 Wastewater Improvement District.<sup>6</sup> The reason given for this arrangement by Mr. Owens was the  
24 need for booster pumps to provide consistent water pressure at various elevations within the

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26 <sup>1</sup> Tr. at 19, 20.

27 <sup>2</sup> *Id.* at 23 and 24, 30 and 31.

28 <sup>3</sup> Thunder Ridge lots are served by individual wells.

<sup>4</sup> *Id.* at 35.

<sup>5</sup> *Id.* at 36.

<sup>6</sup> *Id.* at 44.

1 development.<sup>7</sup>

2       7. By procedural order issued on March 22, 2006, Staff was ordered to file additional  
3 information relating to the existence and legal status of Beaver Creek Wastewater Improvement  
4 District, the advisability of implementation of a master meter system within an area certificated by  
5 the Commission, the existence of other such systems within Arizona that are certificated by the  
6 Commission, and any other relevant information.

7       8. On April 20, 2006, Staff filed its Addendum to Staff Report, indicating that based on  
8 the information at hearing regarding Arizona Water providing a master meter to the Beaver Creek  
9 Wastewater Improvement District, Staff had changed its position and now recommended that portion  
10 of the CC&N request be denied by the Commission.

11       9. Because Arizona Water would not be responsible for the water delivery facilities  
12 within Parcel One, nor for the billing or interface with the end user customer as would normally be  
13 done within a CC&N area, Staff stated its recommendation that the CC&N not be extended to Parcel  
14 One.

15       10. Staff's revised recommendation would obviate the perceived convenience or necessity  
16 of providing Parcels Two and Three, as the only request for service filed in this docket is that of  
17 Beaver Creek Preserve, located in Parcel One.

18       11. Arizona Water made several requests for extensions of time to file its response to  
19 Staff's Addendum to Staff Report, all of which were granted. On June 20, 2006, Arizona Water filed  
20 its Response to Addendum to Staff Report and stated that, in cooperation with Yavapai County and  
21 the developer of the Beaver Creek Preserve, it has sought and obtained a dissolution of the Beaver  
22 Creek Wastewater Improvement District and would now be providing individual meter service and  
23 billing to the homes in that area.

24       12. Because Arizona Water has arranged to provide individual meter service and, with the  
25 cooperation of the developer and Yavapai County, has arranged for the dissolution of the Beaver  
26 Creek Wastewater Improvement District, Staff's recommendations made in the Addendum to Staff

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27  
28 <sup>7</sup> *Id.* at 49.

Report are now moot. By Procedural Order issued on July 6, 2006, Arizona Water was ordered to file an update regarding how sewer service would be provided to the Beaver Creek Preserve. On July 10, 2006, Arizona Water filed its Response to Request for Information Concerning Sewer Service within Beaver Creek Preserve, stating that sewer service will be provided by a Domestic Wastewater Improvement District through a package wastewater treatment system.

#### **Montezuma**

13. On February 23, 2006, Montezuma applied for intervention in this matter. No objection was filed, and Montezuma's request for intervention was granted by Procedural Order on March 6, 2006.

14. In Decision No. 67583 (Feb. 15, 2005), the Commission approved the transfer of the Certificate and sale of assets of Montezuma Property Owners association, a for-profit water company, to Montezuma. The Decision notes that although Arizona Water expressed interest in acquiring Montezuma, the board of the Montezuma Estates Property Owners Association met with its members, who indicated that they did not wish to sell to AMC as they wished to "stay small."

15. Staff contacted Montezuma due to the proximity of the requested extension area to Montezuma's existing CC&N. Although Montezuma did not produce written requests for service from property owners in Parcel Three, Mrs. Patricia Olsen, owner of Montezuma, testified that Montezuma has been asked informally to provide water service after development begins in that area.<sup>8</sup> Montezuma did not have an application for CC&N extension pending at the time of the hearing in this matter.

16. Mr. Owens testified that Beaver Creek Preserve had considered requesting service of Montezuma, but stated that the required cash infusion to the company from the developer made the arrangement disadvantageous to Beaver Creek.<sup>9</sup>

#### **AWC's Water System**

17. The Rimrock system is comprised of six wells with a total production capacity of 485 gallons per minute, 460,000 gallons of storage capacity, booster pumps, pressure tanks, and a

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<sup>8</sup> *Id.* at 59.

<sup>9</sup> *Id.* at 36, 37.

1 distribution system serving approximately 1,200 connections.

2 18. Staff determined that Arizona Water will have sufficient capacity to provide service to  
3 the extension area and to continue to provide water to its current service territory, including customer  
4 growth.

5 19. Arizona Water will finance the facilities necessary to provide service to the extension  
6 area by a main extension agreement.

7 20. The Arizona Department of Environmental Quality ("ADEQ") regulates the Rimrock  
8 water system and has determined that it is currently delivering water that meets the water quality  
9 standards required by Arizona Administrative Code, Title 18, Chapter 4.

10 21. The Rimrock system is not within an Active Management Area and is therefore not  
11 subject to the Arizona Department of Water Resources' ("ADWR") reporting and conservation rules.

12 22. Arizona Water currently has no outstanding Commission compliance issues according  
13 to the Utilities Division Compliance Section, nor were there any complaints or comments filed by  
14 customers of the Rimrock system during 2005 and 2006.

15 23. The most recent lab analysis submitted by AWC indicated that the arsenic levels in  
16 several of its wells exceed the U.S. Environmental Protection Agency arsenic standard of 10  
17 micrograms per liter. AWC is currently in the process of constructing arsenic remediation facilities  
18 to meet the new standard in its Rimrock system. According to Staff, these facilities will be  
19 completed later this year.

20 24. Arizona Water will provide water utility service to customers within the extension  
21 area under its currently authorized rates and charges for the Rimrock system.

22 25. Arizona Water has been granted a franchise by Yavapai County which encompasses  
23 the extension area.

24 26. Because an allowance for the property tax expense of Arizona Water is included in the  
25 Company's rates and will be collected from its customers, the Commission seeks assurances from the  
26 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing  
27 authority. It has come to the Commission's attention that a number of water companies have been  
28 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,

1 some for as many as twenty years. It is reasonable, therefore, that as a preventative measure Arizona  
2 Water annually file, as part of its annual report, an affidavit with the Utilities Division attesting that  
3 the company is current in paying its property taxes in Arizona.

4 **Staff Recommendations**

5 27. Staff stated that it is in the public interest for the Commission to approve Arizona  
6 Water's application for CC&N extension to Parcels One and Two because there is a request for  
7 service from the landowner of Parcel One, and the proposed twelve-inch main will run through Parcel  
8 Two, enabling the availability of water service to that parcel. Staff concluded that it is not in the  
9 public interest at this time to approve Arizona Water's extension into Parcel Three due to the lack of  
10 a request for service and due to its proximity to Montezuma.

11 28. Staff further recommends:

12 1) Arizona Water should file, as a compliance item in this docket, a copy of the  
13 Approval to Construct for the extension facilities within one year from the date of the  
14 Decision in this matter.

15 2) Arizona Water should charge its authorized Rimrock system rates and charges  
16 to the customers within the extension area until such time as they are changed by order of the  
17 Commission.

18 3) Arizona Water should file, as a compliance item in this docket, copies of the  
19 developer's letter of Adequate Water Supply, stating that there is adequate water for the  
20 requested area, no later than one year from the effective date of an order approving this  
21 extension.

22 4) That the Decision granting the requested CC&N extension be considered null  
23 and void, after due process, should Arizona Water fail to meet the preceding three conditions  
24 within the time specified.

25 29. Because of the unique circumstance by which service through Parcel Two is necessary  
26 for the support of providing service to Parcel One, we find that granting Arizona Water a Certificate  
27 for Parcels One and Two is in the public interest.

28 30. At this time, considering the totality of circumstances including the fact that there are

1 no requests for service in Parcel Three, and including the intervention of Montezuma, it is premature  
2 to grant Arizona Water a CC&N to serve Parcel Three. Nothing prohibits Arizona Water from  
3 providing service to Parcel Three at a later time when there are requests for service.

4 **CONCLUSIONS OF LAW**

5 1. Arizona Water is a public service corporation within the meaning of Article XV of the  
6 Arizona Constitution and A.R.S. §40-281 *et seq.*

7 2. The Commission has jurisdiction over Arizona Water and the subject matter of the  
8 application.

9 3. Notice of the application was provided in accordance with law.

10 4. There is a public need and necessity for water utility service in the proposed extension  
11 area.

12 5. Arizona Water is a fit and proper entity to receive an extension of its water CC&N to  
13 include the service area more fully described in Exhibit A attached hereto, subject to compliance with  
14 the conditions set forth above.

15 **ORDER**

16 IT IS THEREFORE ORDERED that the application for CC&N extension for the Parcels One  
17 and Two, more specifically described in the legal description in attached Exhibit B, shall be, and  
18 hereby is, granted.

19 IT IS FURTHER ORDERED that Arizona Water Company shall file with Docket Control as  
20 a compliance item in this docket a revised legal description including only Parcels One and Two  
21 within 30 days of the date of this Decision.

22 IT IS FURTHER ORDERED that Arizona Water Company shall file, as a compliance item in  
23 this docket, a copy of the Approval to Construct for the extension facilities within one year from the  
24 date of this Decision.

25 IT IS FURTHER ORDERED that Arizona Water Company shall file with Docket Control, as  
26 a compliance item in this docket, a Notice of Filing indicating Arizona Water Company has  
27 submitted for Staff review and approval, a copy of the fully executed main extension agreements for  
28 water facilities for the extension area within 365 days of this Decision.

IT IS FURTHER ORDERED that Arizona Water Company shall charge its authorized Rimrock system rates and charges to the customers within the extension area until such time as they are changed by order of the Commission.

IT IS FURTHER ORDERED that Arizona Water Company shall file, as a compliance item in this docket, copies of the developer's letter of Adequate Water Supply, stating that there is adequate water for the requested area, no later than one year from the effective date of this Decision.

IT IS FURTHER ORDERED that this Decision shall be considered null and void, after due process, should Arizona Water fail to meet the conditions of the preceding three ordering paragraphs within the time specified.

IT IS FURTHER ORDERED that Arizona Water Company shall annually file as part of its annual report, an affidavit with the Utilities Division attesting that the Company is current in paying its property taxes in Arizona.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

*Jeffrey A. Hatch-Mullen*  
CHAIRMAN

*W. J. Miller*  
COMMISSIONER

Commissioner Spitzer resigned  
effective 7-21-2006

COMMISSIONER

*James E. Spitzer*  
COMMISSIONER

*R. V. Myn*  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 28<sup>th</sup> day of July, 2006.

*Brian C. McNeil*  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: ARIZONA WATER COMPANY

2 DOCKET NO.: W-01445A-05-0705

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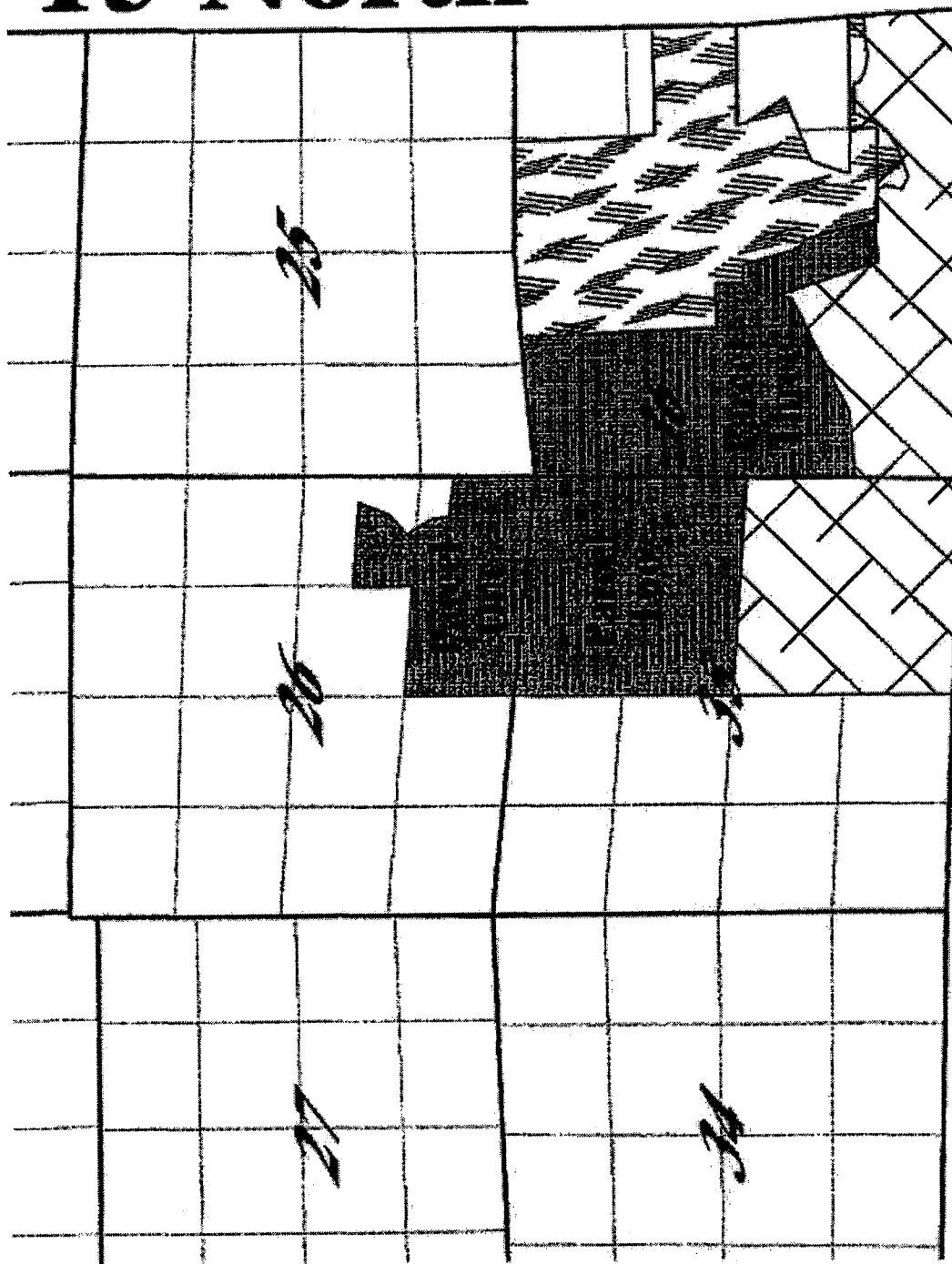
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EXHIBIT 2

EXHIBIT A

# 15 North

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## EXHIBIT B

## EXHIBIT 1

CC&N This Application  
REVISEDPARCEL ONE

A parcel of land situated within the Southeast quarter of Section 26, Township 15 North, Range 5 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the Southwest corner of said Southeast quarter;

Thence N00°15'49"W, a distance of 1392.97 feet to the Northwest corner of the South half of the Southeast quarter of said Section 26;

Thence S85°10'44"E, a distance of 1341.11 feet to the Southwest corner of the South half of the Northeast quarter of the Southeast quarter of said Section 26;

Thence N00°16'13"W, a distance of 709.28 feet to the Northwest corner of said South half of the Northeast quarter of the Southeast quarter of said Section 26;

Thence S85°42'56"E, along the North line of said South half of the Northeast quarter of the Southeast quarter of said Section 26, a distance of 1018.16 feet;

Thence S23°56'15"W, along the boundary of Thunder Ridge - Phase V, according to Book 52 of Maps, Pages 27, 28 and 29 of records, Yavapai County, Arizona, a distance of 414.11 feet;

Thence S49°52'50"W, along said boundary, a distance of 292.91 feet;

Thence S31°19'38"E, along said boundary, a distance of 338.57 feet;

Thence S08°55'58"E, along said boundary, a distance of 226.69 feet;

Thence S82°57'02"E, along said boundary, a distance of 511.00 feet;

Thence S00°17'07"E, along the East line of the Southeast quarter of said Section 26, a distance of 1047.53 feet to the Southeast corner said Section 26;

Thence N84°04'52"W, a distance of 2687.84 feet to The POINT OF BEGINNING.

PARCEL TWO

The Northeast quarter of Section 35, Township 15 North, Range 5 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona.

PARCEL THREE

That portion of Section 36, Township 15 North, Range 5 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

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BEGINNING at the Northwest corner of said Section 36;

Thence N84°25'00"E, coincident with the North line of said Section 36, a distance of 1669.20 feet to the Northwest corner of Lake Montezuma Estates, Unit One, according to Book 13, Map 29 of records, Yavapai County, Arizona;

Thence S02°01'45"E, along the westerly boundary line of said Unit One, a distance of 2339.99 feet;

Thence N88°24'55"E, along a boundary line of said Unit One, a distance of 534.25 feet;

Thence S02°01'45"E, along a boundary line of said Unit One, a distance of 162.84 feet to a corner of said Lake Montezuma Estates Unit One, said corner also being a corner of Lake Montezuma Estates Unit Two, according to Book 13, Map 30 of records, Yavapai County, Arizona;

Thence continuing S02°01'45"E, along said Unit Two boundary, a distance of 162.84 feet;

Thence N88°24'55"E, along said Unit Two boundary, a distance of 205.75 feet;

Thence S15°18'03"E, along said Unit Two boundary, a distance of 627.15 feet;

Thence S31°10'33"E, along said Unit Two boundary, a distance of 88.45 feet;

Thence S53°17'03"E, along said Unit Two boundary, a distance of 106.00 feet;

Thence S14°17'03"E, along said Unit Two boundary, a distance of 860.00 feet;

Thence leaving said Unit Two boundary, S86°05'30"W, a distance of 495.06 feet to the most easterly corner of Montezuma Haven, according to Book 13, Page 73 of records, Yavapai County, Arizona;

Thence N17°50'00"W, coincident with the westerly boundary of said Montezuma Haven, a distance of 1228.20 feet;

Thence S20°56'00"W, a distance of 153.40 feet;

Thence S63°16'00"W, a distance of 1506.90 feet;

Thence S85°22'30"W, a distance of 790.00 feet to a point on the West line of said Section 36;

Thence N00°49'00"E, coincident with the West line of said Section 36, a distance of 3808.29 feet to the Northwest corner of said Section 36 and the POINT OF BEGINNING.

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